

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAIn re VERIFONE HOLDINGS, INC.  
SECURITIES LITIGATION.

No. C 07-6140 MHP

**MEMORANDUM & ORDER**

This document relates to: ALL ACTIONS.

**Re: Plaintiffs' Motion for Leave to File  
Third Amended Complaint**

On March 5, 2010, defendants VeriFone Systems, Inc., William Atkinson, Craig Bondy, Douglas Bergeron, Paul Periolat and Barry Zwarenstein (collectively "defendants") filed motions to dismiss plaintiffs' second amended complaint ("SAC"). The motions were fully briefed and oral argument was held on May 17, 2010. On July 30, 2010, plaintiffs filed a motion for leave to file a third amended complaint ("TAC"). Defendants do not oppose the motion for leave to file a TAC; however, defendants intend to move to dismiss the TAC.

The court was prepared to issue an order on defendants' motions to dismiss the SAC, and is surprised that defendants did not oppose the proposed TAC on futility grounds rather than waiting to attack it on yet another motion to dismiss as they suggest is their intention. The court deems it appropriate and more expeditious to proceed in the following manner. Plaintiffs may, if they choose, incorporate facts from the court's order in the derivative action against VeriFone. If they do so, they shall submit within twenty (20) days of the date of this order a new version of the TAC and the current version at Docket No. 253 will be deemed withdrawn.

The dismissal motions have already been extensively briefed by the parties and the court finds it appropriate to short-circuit yet another full round of briefing. Thus, by October 5, 2010, defendants shall file a memorandum of points and authorities addressing the new TAC and why the

1 **new** allegations made in the TAC are not sufficient to satisfy the pleading standards set forth in the  
2 Private Securities Litigation Reform Act of 1995 ("PSLRA"). In an effort to cabin the extensive  
3 briefing that has already occurred in this action, defendants' briefs in support shall not exceed 25  
4 pages total, and focus on why the new allegations are not sufficient to meet PSLRA pleading  
5 standards, including whether scienter is adequately pled. By November 1, 2010, plaintiffs shall file  
6 an opposition not to exceed 25 pages. No reply briefs will be considered. The motion shall be  
7 deemed submitted on the papers upon filing of plaintiffs' opposition. The briefing should eschew  
8 redundancy and may rely on and incorporate by reference, citing to pages, lines and paragraphs,  
9 prior briefs, arguments and pleadings that may be relevant to the new TAC. The parties are apprised  
10 that the court has already reviewed the extensive briefing filed in this case and does not want a  
11 reiteration of the same arguments.

12 IT IS SO ORDERED.

13 Dated: August 26, 2010

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16 MARILYN HALL PATEL  
17 United States District Court Judge  
18 Northern District of California  
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